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July 21, 1998

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**RECEIVED**  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**ORIGINAL**

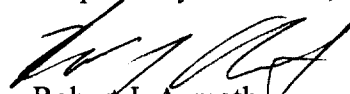
Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98 & CCB/CPD 97-30

Dear Ms. Salas:

On behalf of the Competitive Telecommunications Association ("CompTel"), I am writing to notify you of a meeting yesterday between Genevieve Morelli, Joseph Gillan and I, on behalf of CompTel, and Jane Jackson, Tamara Preiss, and Edward Krachmer of the Competitive Pricing Division. In that meeting, CompTel recommended that the Commission take no action on the issue whether Internet access traffic is subject to reciprocal compensation obligations under Section 251(b)(5) of the Telecommunications Act of 1996. In particular, CompTel noted that any problems regarding reciprocal compensation can be and are being resolved through negotiations for new interconnection agreements between incumbent local exchange carriers and competitive local exchange carriers. CompTel also distributed the attached document to show that withdrawing Internet access traffic from the statutory reciprocal compensation mechanism would violate the express terms of the WTO Basic Telecom Agreement.

Respectfully submitted,

  
Robert J. Aamoth

cc: Jane Jackson (w/encl.)  
Edward Krachmer (w/encl.)  
Tamara Preiss (w/encl.)

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**COMPTEL EX PARTE  
RECIPROCAL COMPENSATION  
JULY 20, 1998**

***THE ILEC PROPOSALS TO WITHDRAW RECIPROCAL COMPENSATION FOR  
INTERNET ACCESS TRAFFIC WOULD VIOLATE THE WTO AGREEMENT***

**I. THE ILECS ARE ASKING THE FCC TO HOLD THAT INTERNET ACCESS TRAFFIC IS NOT SUBJECT TO RECIPROCAL COMPENSATION UNDER SECTION 251(B)(5).**

**A. THE ILECS WANT TO PAY NO COMPENSATION TO CLECS FOR THIS TRAFFIC, OR THEY WANT TO “SHARE” END-USER RETAIL REVENUES (I.E., AMERITECH REVENUE SHARING PROPOSAL).**

**B. THE ILECS WANT TO HAVE THE RIGHT TO FORCE CLECS TO INCUR COSTS TO TERMINATE ILEC-ORIGINATING TRAFFIC WITHOUT PAYING COST-BASED INTERCONNECTION RATES.**

**II. THE ILECS’ PROPOSALS WOULD VIOLATE U.S. OBLIGATIONS UNDER THE WTO BASIC TELECOMMUNICATIONS AGREEMENT**

**A. THE WTO REFERENCE PAPER CONTAINS DEFINITIONS AND PRINCIPLES THAT ARE BINDING TREATY OBLIGATIONS OF THE UNITED STATES.**

**B. SECTION 2 OF THE WTO REFERENCE PAPER DEFINES THE TERM “INTERCONNECTION” TO INCLUDE *RECIPROCAL* INTERCONNECTION OBLIGATIONS – NAMELY, “LINKING WITH SUPPLIERS PROVIDING PUBLIC TELECOMMUNICATIONS TRANSPORT NETWORKS OR SERVICES IN ORDER TO ALLOW THE USERS OF ONE SUPPLIER TO COMMUNICATE WITH USERS OF ANOTHER SUPPLIER.”**

**C. WITH RESPECT TO DOMINANT CARRIERS SUCH AS ILECS, THE WTO REFERENCE PAPER IMPOSES SEVERAL OBLIGATIONS.**

**(i) SECTION 2.2(a) REQUIRES NON-DISCRIMINATORY INTERCONNECTION RATES WHICH ARE NO LESS FAVORABLE THAN THE ILEC CHARGES TO ITSELF.**

**(ii) SECTION 2.2(b) REQUIRES INTERCONNECTION AT "COST-ORIENTED RATES."**

**D. THE ILECS' PROPOSAL TO ELIMINATE RECIPROCAL COMPENSATION FOR INTERNET ACCESS TRAFFIC WOULD VIOLATE BOTH REQUIREMENTS.**

**(i) THE ILECS WOULD TERMINATE THEIR OWN INTERNET ACCESS TRAFFIC AT THE UNDERLYING ECONOMIC COST, BUT THEY WOULD NOT PAY A SIMILAR RATE FOR THE TERMINATION OF INTERNET ACCESS TRAFFIC THAT THEY HAND-OFF TO CLECS.**

**(ii) THE ILECS WOULD NOT PAY A "COST-ORIENTED" RATE TO THE CLEC FOR THE TERMINATION OF ILEC-ORIGINATING INTERNET ACCESS TRAFFIC.**

**III. THE UNITED STATES HAS UNDERTAKEN SIGNIFICANT EFFORTS TO EDUCATE AND PERSUADE THE REST OF THE WORLD TO IMPLEMENT COST-BASED INTERCONNECTION REGIMES. IT WOULD SEND THE WRONG SIGNAL TO ENDORSE A DEVIANT, NON-COST BASED INTERCONNECTION REGIME FOR INTERNET ACCESS TRAFFIC.**

# WORLD TRADE ORGANIZATION

GATS/SC/90/Suppl.2

11 April 1997

(97-1457)

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Trade in Services

## THE UNITED STATES OF AMERICA

### Schedule of Specific Commitments

#### Supplement 2

(This is authentic in English only)

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This text supplements the entries relating to the Telecommunications section contained on pages 45 to 46 of document GATS/SC/90.

# UNITED STATES - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>2.C. TELECOMMUNICATIONS SERVICES:</b>			<b>The United States undertakes the obligations contained in the reference paper attached hereto.</b>
2.C.a. Voice services	(1) None	(1) None	
2.C.b. Packet-switched data transmission services	(2) None	(2) None	
2.C.c. Circuit-switched data transmission services	(3) None, other than <ul style="list-style-type: none"><li>- Comsat has exclusive rights to links with Intelsat and Inmarsat.</li></ul>	(3) None	
2.C.d. Telex services	<ul style="list-style-type: none"><li>- Ownership of a common carrier radio license:</li></ul>		
2.C.e. Telegraph services			
2.C.f. Facsimile services	Indirect: None		
2.C.g. Private leased circuit services	Direct: May not be granted to or held by <ul style="list-style-type: none"><li>(a) foreign government or the representative thereof</li><li>(b) non-U.S. citizen or the representative of any non-U.S. citizen</li></ul>		

es of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>.o. Other</p> <p>Mobile Services</p> <p>Analogue/Digital cellular services</p> <p>PCS (Personal Communications services)</p> <p>Paging services</p> <p>Mobile data services</p> <p>*Excluding one-way satellite transmissions of DTH and DBS television services and of digital audio services</p>	<p>(c) any corporation not organized under the laws of the United States or</p> <p>(d) U.S. corporation of which more than 20% of the capital stock is owned or voted by a foreign government or its representative, non-U.S. citizens or their representatives or a corporation not organized under the laws of the United States.</p> <p>(4) Unbound except as indicated by horizontal commitments</p>	<p>(4) Unbound except as indicated by horizontal commitments.</p>	

ATTACHMENT TO THE UNITED STATES SCHEDULE

REFERENCE PAPER

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## **2. Interconnection**

**2.1** This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

### **2.2 Interconnection to be ensured<sup>1</sup>**

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

### **2.3 Public availability of the procedures for interconnection negotiations**

The procedures applicable for interconnection to a major supplier will be made publicly available.

### **2.4 Transparency of interconnection arrangements**

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

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<sup>1</sup>Rural local exchange carriers may be exempted by a state regulatory authority for a limited period of time from the obligations of section 2.2. with regard to interconnection with competing local exchange carriers.

Rural telephone companies do not have to provide interconnection to competing local exchange carriers in the manner specified in section 2.2. until ordered to do so by a state regulatory authority.



## 2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

## 3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

## 4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

## 5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

## 6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

# WORLD TRADE ORGANIZATION

GATS/EL/90/Suppl.2

11 April 1997

(97-1462)

Trade in Services

## THE UNITED STATES OF AMERICA

### List of Article II (MFN) Exemptions

#### Supplement 2

(This is authentic in English only)

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This text is inserted in document GATS/EL/90.

# THE UNITED STATES - LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Telecommunication services: One-way satellite transmission of DTH and DBS television services and of digital audio services	Differential treatment of countries due to application of reciprocity measures or through international agreements guaranteeing market access or national treatment	All	Indefinite	Need to ensure substantially full market access and national treatment in certain markets.